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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/341,665 11/17/94 SCHMIDT

W MLO144C

EXAMINER  
SHAFER, R

E5M1/0321

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ART UNIT PAPER NUMBER

3

2507

DATE MAILED:

03/21/95

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☐ Responsive to communication filed on \_\_\_\_\_ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), \_\_\_\_\_ days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

**Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:**

- |   |  |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input checked="" type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-948. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449.                 | 4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152.                  |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474.     | 6. <input type="checkbox"/> _____  |

**Part II SUMMARY OF ACTION**

1. ☒ Claims 1, 6 AND 7 are pending in the application.

Of the above, claims \_\_\_\_\_ are withdrawn from consideration.

2. ☐ Claims \_\_\_\_\_ have been cancelled.

3. ☐ Claims \_\_\_\_\_ are allowed.

4. ☒ Claims 1, 6 AND 7 are rejected.

5. ☐ Claims \_\_\_\_\_ are objected to.

6. ☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

7. ☒ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. ☐ Formal drawings are required in response to this Office action.

9. ☐ The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).

10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).

11. ☐ The proposed drawing correction, filed \_\_\_\_\_, has been ☐ approved; ☐ disapproved (see explanation).

12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.

13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. ☐ Other

**EXAMINER'S ACTION**

Art Unit 2507

Claim 1 is provisionally rejected under 35 U.S.C. § 101 as claiming the same invention as that of claim 1 of copending application Serial No. 07/942,294. This is a *provisional* double patenting rejection since the conflicting claims have not in fact been patented.

Claims 1,6 and 7 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, lines 3-4, the use of the language "ellipsoid....axis" is misdescriptive. As understood by the examiner, an ellipsoid contains a major axis and a minor axis. Therefore, applicant's recitation that the ellipsoid has a first major axis and a second major axis is misdescriptive and nonsensical.

In claim 6, line 2, the language "the mirror legs" lacks proper antecedent basis.

In claim 6, lines 2-4, the language "comprises....curvature" is vague, indefinite and unclear to the examiner what applicant is intending by the above noted language.

In claim 7, lines 2-4, the language "wherein....therealong" is misdescriptive for the same reason stated above.

In claim 7, line 4 "the shorter radius" lacks proper antecedent basis.

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In claim 7, line 5 "the larger radius" lacks proper antecedent basis.

205. In claim 7, line 5, "the <sup>perimetral</sup> edge" lacks proper antecedent basis.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --  
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 1 and 6 are rejected under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103 as obvious over Schmidt et al. (372)

To the extent the claims are definite, Schmidt et al.

discloses an elliptical mirror assembly comprising a mirror lens (22) being a substantially convex ellipsoid with a first major axis of 4.11 inches from the origin and a second minor axis of 3.72 inches from the origin and a reflective surface (29), means for supporting the mirror lens (66,70) and means for mounting the mirror lens to a mounting surface (60,88,<sup>8</sup>94), note fig.5, wherein the examiner is of the opinion that the elliptical mirror of Schmidt et al would inherently be oval in shape due to the fact that the mirror is of a shape of an ellipse.

However, if this is not the case, the examiner is of the opinion that, due to the specification's lack of showing of criticality or unexpected results, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the mirror shape of Schmidt et al to be oval in order to obtain a particular viewing zone of interest. Note In re Dailey et al., 149 USPQ 47.

Claims 1,6 and 7 are rejected under 35 U.S.C. § 102(e) as anticipated by or, in the alternative, under 35 U.S.C. § 103 as obvious over Albers et al.

To the extent the claims are definite, Albers et al. discloses an oval elliptical mirror assembly comprising a convex mirror lens (14) having a first major axis continuously varying to a maximum value of 13.75 inches, a second minor axis continuously varying to a maximum value of 9.75 inches and a

reflective surface (15 or 16), means for supporting the mirror lens (26,44) and means for mounting the mirror lens to a mounting surface (29,38,45), Note figures 2-4, wherein the examiner is considering the non-reflective rear surface to be the outer surface of element 23, shown in fig. 3.

However, if this is not the case, the examiner states it is well known to coat a reflective material with a protective coating, such as paint, in the same field of endeavor for the purpose of inherently protecting the reflective material from oxidation and to obscure the object in the background by absorbing any light rays that might penetrate the reflective material. Note by example only, U.S. Patent 4,822,157 to Stout.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the reflective surface (15) of Albers et al to include a protective coating, such as paint, as evidenced by Stout ('157) in order to protect the reflective material from oxidation as well as obscuring the object in the background by absorbing any light rays that might penetrate the reflective material.

The disclosure is objected to because of the following informalities: The specification reference to "a second major axis 34" would appear to be inconsistent with the terminology used in the mirror art to define and/or describe a minor axis of an ellipsoid. Appropriate correction is required.

Serial No. 341,665

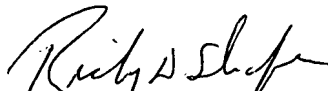
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Papers related to this application may be submitted to Group 2500 by facsimile transmission. Papers should be faxed to Group 2500 via the PTO Fax Center located in Crystal Plaza 2. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CP2-4C24 Fax Center number is (703) 305-3594.

Any inquiry concerning this communication should be directed to R.D. Shafer at telephone number (703) 308-4813.

Shafer/ab RDS  
March 08, 1995

  
RICKY D. SHAFER  
PATENT EXAMINER  
ART UNIT 2507